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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,790	05/18/2006	Yoshiyuki Takase	Q94561	7397
23373 7590 07/08/2010 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER BUIE-HATCHER, NICOLE M	
			ART UNIT 1796	PAPER NUMBER
			NOTIFICATION DATE 07/08/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com  
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USPTO@SUGHRUE.COM

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,790	<b>Applicant(s)</b> TAKASE ET AL.	
	<b>Examiner</b> NICOLE M. BUIE-HATCHER	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed 04/08/2010 has been entered. Claims 1-10 remain pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 7-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckmaster (US 5,045,605).

**Regarding claim 7 and 9**, Buckmaster discloses melt-processible fluorocopolymers, such as tetrafluoroethylene/hexafluoropropylene copolymers or

Art Unit: 1796

tetrafluoroethylene/perfluoropropyl vinyl ether with stable  $-\text{CF}_2\text{H}$  groups (Abstract, Examples 4 and 5). Ammonium persulfate is used as the initiator in Example 1. The introduction of ammonium perfluorocaprylate may be used as the dispersing agent if the polymerization medium is water (Example 1). Alkali or alkaline earth metals are not present in the polymerization process. In Table 1, Polymer C is treated with humidity and heat and the number of unstable groups is 15 per  $10^6$  carbon atoms.

However, Buckmaster does not disclose the volatile matter index or yellow index. The Office realizes that all of the claimed effects or physical properties are not positively stated by the reference(s). However, the reference(s) teaches all of the claimed ingredients, number of unstable end groups, and absence of alkali or alkaline earth metals (See Applicants' response filed 06/09/2009 on page 7). Therefore, the claimed effects and physical properties, i.e. volatile matter index would implicitly be achieved by a composition with all the claimed ingredients. If it is the applicant's position that this would not be the case: (1) evidence would need to be provided to support the applicant's position; and (2) it would be the Office's position that the application contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties with only the claimed ingredients.

**Regarding claim 8**, Buckmaster discloses a fluoropolymer obtained by emulsion polymerization (C4/L22-30).

**Regarding claim 10**, in Example 1, Buckmaster discloses a tetrafluoroethylene/hexafluoropropylene copolymer with 12.6 weight percent of HFP and therefore 87.4 weight percent of TFE which meets the claimed ranges of the monomeric units.

***Response to Arguments***

Applicant's arguments have been fully considered and are substantially persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of different interpretation of the applied prior art reference. The following comment(s) apply:

A) Applicant's argument that Buckmaster discloses heating a fluoropolymer in the presence of a secondary or tertiary amine (page 5) is not persuasive. Since Buckmaster teaches treating the fluoropolymer with humid air and heat as shown above in claim 7, the claimed limitations are met, absent objective evidence to the contrary.

B) Applicant's argument that the fluoropolymer of Buckmaster has a high yellow index because of the presence of dimethylamine (page 6) is persuasive. However, Buckmaster also teaches treating the fluoropolymer with humid air and heat as shown above in claim 7.

***Allowable Subject Matter***

**Claims 1-5** are allowed.

The following is an examiner's statement of reasons for allowance: the closest prior art of record, Buckmaster teaches a method of producing with stable end groups. However, Buckmaster does not teach or suggest melt-kneading. Therefore claim 1 is deemed nonobvious over the prior art of record.

***Conclusion***

Art Unit: 1796

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### *Correspondence*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICOLE M. BUIE-HATCHER whose telephone number is (571)270-3879. The examiner can normally be reached on Monday-Thursday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571)272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/  
Supervisory Patent Examiner, Art Unit 1796

/N. M. B./  
Examiner, Art Unit 1796  
6/24/2010